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MAILED

APR 12 2010

In re Patent No. 7,601,351	:	OFFICE OF PETITIONS
Rosen et al.	:	DECISION ON REQUEST FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/602,727	:	PATENT TERM ADJUSTMENT
Filed: June 25, 2003	:	AND NOTICE OF INTENT
Attorney Docket No. PF596PIN	:	TO ISSUE CERTIFICATE OF
Title: ANTIBODIES AGAINST	:	CORRECTION
PROTECTIVE ANTIGEN	:	

This is a decision on the petition filed on November 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-six (1546) or one thousand five hundred forty-two (1542) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 722 (559 days + 64 days + 99 days). The Office incorporates by reference the petition decision mailed on August 5, 2009. The decision mailed on August 5, 2009 addressed the issues raised pursuant to 37 CFR 1.705(b). No further consideration will be given to the issues previously addressed.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1206 days (June 26, 2006 to October 13, 2009 the day the patent issued).

There are one hundred sixty-three (163) days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b) 64 days (May 17, 2007 to July 10, 2007) and 99 days (July 7, 2009 to October 13, 2009).

Patentees' calculation does not reflect the reduction of 45 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed October 27, 2008. The reduction commenced October 27, 2008; the date that the Notice of Appeal was filed, and ended December 10, 2008, the day the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1497 days (722 days under 37 CFR 1.702(a) + 1206 days under 37 CFR 1.702(b) - 163 overlapping days - 45 days pursuant to 37 CFR 1.703(b)(4) - 223 days of applicant delay).

Petitioner is reminded pursuant to 35 USC 154(b)(4)(a), An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5, United States Code, shall apply to such action.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-seven (1497) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,601,351 B1

DATED : **October 13, 2009**

DRAFT

INVENTOR(S) : Rosen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 983 days

Delete the phrase "by 983 days" and insert – by 1497 days--